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In re Application of
FAUBLE et al.
Application No.: 10/511,013
PCT No.: PCT/US03/11130
Int. Filing Date: 10 April 2003
Priority Date: 11 April 2002
Attorney Docket No.: 70078-0212
For: FUEL FILLER HOSE

DECISION

This is a response to applicants' submission, treated as a "Petition under 37 CFR 1.8(b)" filed 18 July 2006 in the United States Patent and Trademark Office (USPTO).

BACKGROUND

On 10 April 2003, applicants filed international application PCT/US03/11130 which claimed a priority date of 11 April 2002.

On 08 October 2004, applicants filed a Transmittal Letter (PTO-1390) requesting entry into the national stage in the United States of America under 35 U.S.C. 371 with, *inter alia*, the requisite basic national fee.

On 17 June 2005, the United States Designated/Elected Office mailed a Notification of Missing Requirements (PCT/DO/EO/905) requiring submission of an oath or declaration in compliance with 37 CFR 1.497 and the surcharge under 37 CFR 1.492(e).

On 12 July 2006, a Notification of Abandonment was mailed to applicant indicating that no reply to the 905 had been submitted.

On 18 July 2006, in response to the Notification of Abandonment, applicants filed the instant submission, which was accompanied by: a copy of "Response to Notification of Missing Requirements under 35 U.S.C. 371" and an executed declaration, in compliance with 37 CFR 1.497. Petitioner alleges that the executed declaration was submitted by facsimile on 21 June 2005.

DISCUSSION

At the outset it is noted that the submission of 18 July 2006 was not personally signed by the practitioner and thus is not an acceptable filing. 37 CFR 10.18(a) emphasizes

that every paper filed by a practitioner must be personally signed by the practitioner and states, in pertinent part, :

For all documents filed in the Office in patent, trademark, and other non-patent matters, except for correspondence that is required to be signed by the applicant or party, each piece of correspondence filed by a practitioner in the Patent and Trademark Office must bear a signature, personally signed by such practitioner, in compliance with § 1.4(d)(1) of this chapter.

A review of the application file reveals that the original declaration allegedly filed 21 June 2005 under 37 CFR 1.8 is not located in the application file.

37 CFR 1.8(b) states,

In the event that correspondence is considered timely filed by being mailed or transmitted in accordance with paragraph (a) of this section, but not received in the Patent and Trademark Office, and the application is held to be abandoned or the proceeding is dismissed, terminated, or decided with prejudice, the correspondence will be considered timely if the party who forwarded such correspondence:

(1) Informs the Office of the previous mailing or transmission of the correspondence promptly after becoming aware that the Office has no evidence of receipt of the correspondence;

(2) Supplies an additional copy of the previously mailed or transmitted correspondence and certificate; and

(3) Includes a statement which attests on a personal knowledge basis or to the satisfaction of the Commissioner to the previous timely mailing or transmission. If the correspondence was sent by facsimile transmission, a copy of the sending unit's report confirming transmission may be used to support this statement.

Applicant has not submitted a statement which attests on a personal knowledge basis or to the satisfaction of the Commissioner to the previous timely mailing or transmission. The statement signed by the person having first hand knowledge is required. Applicant must also provided a copy of the sending unit's report confirming transmission on 21 June 2005. Thus, Items (2) and (3) above are not yet satisfied.

CONCLUSION

Therefore, applicants' petition under 37 CFR 1.8(b) is DISMISSED WITHOUT PREJUDICE.

The application will be held in the Office of PCT Legal Administration to await applicant's reply.

Please direct further correspondence with respect to this matter to Mail Stop PCT,

Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria,
Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT
Legal Administration.



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